

***North Carolina Wireless 911 Board***  
**MINUTES**  
**January 27, 2006**

## Guest

David Dodd, Cleveland Co 911

Lamerle Lee, Intrado

Tonya Pearce, NCNENA

Phillip Penny

Emerson Suther, CT Communications, Inc.

### Staff Absent

### Chair's Welcoming Remarks:

**Ethics Awareness/Conflict of Interest Statement:**

### Approval of minutes

Chairman Stoneman asked for comments or corrections to the previous meeting minutes, and hearing none, asked for a motion to accept them as written. Belinda Gurkins so moved, David Keever seconded, and the motion carried.

### **Executive Director's Field Report**

Richard Taylor reported on progress taking the 911 Funding Seminars across the state. He said that due to the holiday season only two have taken place since the last Board meeting: one in region H (Richmond County area) and one in region J (Wake County area) back in early December. Regions K (Vance County) and N (Scotland County) are already scheduled for next month, with more to follow. He also told the Board about a project he had undertaken to equip the conference room with a permanent, ceiling mounted projector that's bright enough and big enough to be easily seen. He has been told the installation will probably begin next week, so it will be in place before the next Board meeting. He mentioned attending an interesting VoIP class up in Suffolk, VA, where he picked up new information regarding VoIP and 911. He also attended the recent NCAPCO/NENA chapter meetings in Durham.

### **Trainer's Field Report**

Ron Adams said that after the last Board meeting he and Richard had brainstormed about creating web based training that was more engaging than simply posting a videotaped PowerPoint presentation. Jill Hammergren, Media Services Manager, with the Agency for Public Telecommunications, attended one of the Telecommunicator classes in Brunswick County in January and subsequently met with Richard and Ron to discuss potential ideas for a training video.

Chairman Stoneman asked what kind of suggestions Jill had. Richard Taylor explained Jill had suggested breaking the training into several different modules, including interactive testing packages with each module. She also suggested basing the training on real incidents, taping in a comm center and relating the training to a real life scenario.

Richard also added that Ron was visiting PSAPs to look into the "care and feeding" of wireless 911 as a potential new course offering. Richard and Ron feel this can take us to the next level of education, identifying PSAPs' needs after wireless 911 is in place.

### **Request by TracFone for Return of Surcharge Collections**

Richard Taylor explained that TracFone had sent the Board a letter in July of last year (copy in the agenda packet) requesting reimbursement of wireless 911 surcharge payments they had made because they felt those payments had been made in error. Richard noted that from November of 2000 through May of 2001 those payments had not come to the Wireless Board. They had instead been sent to the Department of Revenue, which did not forward them to the Board. He added that TracFone had stopped sending payments altogether in November of 2003, indicating that they didn't feel the requirements of NCGS § 62A applied to them. He then asked Richard Bradford to provide a legal perspective.

Richard Bradford explained that following receipt of the TracFone letter he was asked to provide an advisory letter to George Bakolia, which he did on October 7, copied to Richard Taylor and Steve Stoneman. The arguments presented in the TracFone letter were essentially that the fee is a tax. In his letter Richard explained the legal precedent for determining that the fee is not a tax. He also spoke with one of his counterparts representing the Department of Revenue, who explained that although there is a process whereby a taxpayer who has overpaid taxes may petition for a refund, there is no process for someone who pays in money who is not a taxpayer to petition for a refund.

Richard added that TracFone also argued that under certain Federal law (e.g. the Mobile Telecommunications Sourcing Act) only jurisdictions where there was a primary place of residence or use could tax connections. TracFone maintained in the last legislative session that it could not determine where its customers were using its service—that those customers had no primary place of use or business or residence that TracFone could determine. Richard noted that he subsequently learned that in TracFone’s petition to the FCC to become a designated, non-facilities-based service provider, and therefore eligible for Lifeline/Link-Up funds, USF funds, etc., they had clearly indicated that they do, in fact, have those records. They do know who their customers are, where they live, and so on. Richard concluded that there is no legal basis to refund the money.

Belinda Gurkins asked Richard Bradford if he expects TracFone to pursue legal action against the Board if the money is not refunded. Richard replied that he didn’t honestly know, but that he thought they have the same issue in multiple jurisdictions. If TracFone wished to pursue further legal action if its request is denied, it could do so by filing a Petition for Contested Case Hearing at the Office of Administrative Hearings, and that if it did that, Richard would defend the Board.

Pam Tope asked Richard Taylor if other companies operating like TracFone were paying the surcharge, and Richard replied that he knew of none that were not paying. He added that TracFone has sent similar letters to other States, also, and that no State, to the best of his knowledge, has refunded any money. He added that where they had quit paying, they have now reinstated their payments.

Chairman Stoneman asked if there was a motion to accept legal counsel’s recommendation to deny the request. Belinda Gurkins so moved, Leigh Horner seconded, and the motion carried.

### **Report from oblique imaging subcommittee**

Carolyn Carter reported that one of the central points of discussion in the subcommittee meeting on January 13 was that mapping is not specifically identified as an allowable expense in NCGS § 62A. A case was made, however, that “GIS had been mapping all along.” The committee also discussed how oblique imaging could be used in the call taking, rather than dispatch, process. Carolyn also stated that the findings of the committee constituted a report, not a recommendation. She then asked Richard Bradford to explain his interpretation of options available to the Board.

Richard began by noting that although reference to mapping is not explicit, determining the location of a caller using lat/lon makes it implicit. He said that one option the Board could pursue would be to make that more specific in the statute. That would obviously require legislative change. Another option is for the Board to use its ability to interpret the statute and make policies and procedures to address the issue, which it has done in the past in other areas. That would give the Board an opportunity to explore how things such as oblique imaging and GIS systems are utilized within the intent of the FCC order and the statute.

Discussion about the pros and cons of each approach followed, and Richard Bradford said that he felt that establishing procedures to interpret the statute would be the best approach. It's faster, and it also affords the Board the ability to change as technology changes.

Carolyn mentioned the committee wished to see some cost samples, and Richard Taylor offered some he had gotten from one of the vendors. Each contract would necessarily be different from another based upon choices made by the purchaser. Those choices include how many square miles must be flown, how much of the county gets flown at the community level (less populated areas), and how much at the more detailed, neighborhood level (more densely populated areas). On average, however, a yearly cost (over a two year contract) would be in the neighborhood of \$72,000.00 for a base package to be utilized by a 911 center.

Chairman Stoneman asked Richard how this compares with other GIS applications used for wireless 911, and Richard replied they were very comparable. Chairman Stoneman observed that this could be used a primary location determination tool, and Richard agreed. Referring back to the fact that the Board does not set technical standards, as long as a PSAP can receive and utilize the lat/lon data, the choice of what tool to use is up to the PSAP.

Carolyn asked if a PSAP would be entitled to use both GIS mapping and oblique imaging as acceptable expenses, and the consensus among Board members was that if it were deemed an eligible expense, that decision would be the PSAP's decision, not the Board's. Richard Bradford reminded everyone that in the statutory phrasing that talks about eligible expenses, everything is prefaced by the word 'necessary.' He advised that he believes it is incumbent on the Board to consider whether multiple tools for plotting a caller's location are 'necessary.' He added that he doesn't know the answer, but that it's a determination the Board needs to make.

Carolyn asked Richard Bradford to bring the Board up to date on the determinations made by the Board of Examiners for Engineers and Surveyors regarding licensing for oblique imaging providers. Richard Taylor replied that Board was going to address the issue in late March, but that a determination would probably not be made until April. He added that Erin Ford from Pictometry had told him that the orthography provided in a Pictometry contract is not 'map quality.' It could not be used for surveying or measuring. That, however, would not necessarily be the case for all providers of oblique imaging services.

Richard Bradford noted that if the Board of Examiners for Engineers and Surveyors determines that a provider of oblique imaging services must be licensed, it is not possible to approve it as an eligible expense until such time as that company is licensed. That means you could have companies that are required to be licensed because of the product they provide, as well as companies that also provide similar services that don't have to be licensed because the product and service is different.

Leigh Horner observed that meeting such licensure requirements would be independent of this Board's determination of whether the expense is eligible. It could be an eligible expense, but would not be approved until licensure requirements were met.

Pam Tope asked to hear the specific language in the statute that allows GIS to be interpreted as an allowable expense to see if it could apply to oblique imaging as well. Richard Bradford referred back to his earlier explanation of approaches the Board could take to make that determination, noting that was the question being deliberated. He also read the acceptable use language from § 62A-25 in the legislation that passed last year:

Money from the PSAP Fund shall be used only to pay for the lease, purchase, or maintenance of emergency telephone equipment for the wireless Enhanced 911 system, including necessary computer hardware, software and database provisioning, nonrecurring costs of establishing a wireless Enhanced 911 system, and expenses related to shared resources.

Pam Tope said, "I'm just going to make a statement that I am not going to be prepared to make a decision on this until I go back as a representative of the wireless carriers and seek some input based on what I believe to be an expansion of the use of the fund if we were to allow this. It would actually expand the use of the fund and potentially cause an increase in the surcharge." She also asked if oblique imaging could qualify as a shared resource if it were not an eligible expense in the wireline part of the Statute. Richard Taylor observed that since this Board does not make decisions about wireline expenditures, he really couldn't say.

Belinda Gurkins said she felt that if use of oblique imaging could be justified as part of the call taking process, it would "clear up everything for most people." She added that the subcommittee members determined they would consider it part of the call taking process. Richard Taylor reviewed the FCC order (94-102) language stating that a PSAP must demonstrate the "capability to receive and utilize the data" before requesting Phase 2 deployment from a carrier. He emphasized that the language does not dictate how to "utilize the data," so the PSAP is left to determine what method it chooses to implement.

Chairman Stoneman asked Pam if her concerns would be satisfied if the Board were able to determine that only the part of oblique imaging directly attributable to call taking was eligible. Pam replied yes, as far as that goes, but she would also need more clarification about it being a shared resource. Richard Taylor interjected that while it can be a shared resource, it does not necessarily have to be. He emphasized that mapping is not a necessary tool for wireline E911, since the data received is a street address. Mapping is, however, a necessary tool for wireless E911 because the data received is a latitude/longitude coordinate. Responders to a wireline E911 call can be dispatched to a street address, but a latitude/longitude coordinate must be translated into a

“dispatchable” incident location description before a response can be crafted. So while a mapping tool can be shared, it is a requirement for wireless to have a mapping tool in place.

Leigh Horner expressed concern that wireless funds would be used exclusively to pay for oblique imaging, since it would undoubtedly be used as a shared resource. She wanted to know if the wireline fund would allow payment toward that shared resource. Richard Bradford said he believed the question Pam and Leigh had raised was whether § 62A-8, in the wireline statute, permits the use of those monies collected at the local level on the wireline side for this kind of mapping. He observed that while that is a question of interest to the Board, interpretation of that statute is really beyond the Board. He noted that it would be up to the local government to interpret whether the definition of necessary computer hardware or software would include these types of systems.

Citing time constraints, Chairman Stoneman asked if anyone wanted to make a motion to allow oblique imaging as an eligible expense. Betty Dobson said she would make such a motion. Richard Bradford added that it should be subject to the determination of the Board of Examiners for Surveyors and Engineers. Richard Taylor asked Betty about the wording of the motion, saying he understood the motion to be that the part of oblique imaging that is part of the wireless 911 call taking process is an allowable expense, subject to compliance with the determination of the Board of Surveyors and Engineers. Betty agreed that wording was what she wanted.

David Kever asked if the Board needed to include any other caveats, such as how many location determination tools or multiple installations (e.g. GIS or oblique imaging) could be simultaneously eligible. Chairman Stoneman asked if he meant whether or not the wireless fund would pay for all location determination tools or just the primary one, and David said yes. Don VanLiew observed that if the PSAP claims that this (oblique imaging) is their mapping tool, then it's their mapping tool, and it should be allowed. Richard Taylor asked David if what he was saying was that we should only pay for one mapping tool, and David said that was what he was attempting to clarify. Chairman Stoneman asked if only one, or more than one tool could be deemed 'necessary' as stated in the statutory language.

Pam Tope said that was her concern, that only one 'mapping tool' is 'necessary' to meet statute requirements, therefore only one should be paid for. Betty Dobson said that both should be allowed because of times when location data is not transmitted with the call, such as with an uninitialized phone, where a caller's description of what he or she can see is the only information provided. She said that was where oblique imaging could be of help when GIS could not, because the telecommunicator could pull up a visual image. David Kever said that would be good, but asked if oblique imaging had a search engine that could find, for example, 'green building.' Betty replied that would have to be looked into.

Chairman Stoneman reminded everyone that there was a motion on the table, and asked if anyone wished to second it. Frank Thomason seconded. During discussion, Carolyn Carter said that in conversations she has had with the League (of Municipalities) there is still concern about the cost of oblique imaging. She asked if

Betty would consider amending the motion to say, "The costs associated with this must be within the current allocation, subject to the existing formula, and not used as a basis for increasing the surcharge." Betty agreed, but Richard Bradford said he didn't think that could be done. He pointed out that, as to the question of funding, only the funds that are available can be paid, but there is no limitation as to budget years over which those funds can be paid. Those funds are paid out as they accrue.

Chairman Stoneman observed that there were several questions still outstanding. He said he wanted to put Betty's initial motion, seconded by Frank, to a vote. The motion failed to carry. Chairman Stoneman then suggested that "the committee re-establish, with equal representation, and come back to this Board at the next meeting with recommendations on how we address oblique imaging. The committee's done a good amount of work already, evaluating this, but with the licensing issue, understanding what part of oblique imaging the Board feels should be applicable for eligible expenses, I think the committee needs to come back with recommendations." Don VanLiew asked if they don't also need to determine what's primary, and Chairman Stoneman agreed, saying that what's primary and/or necessary needs to be determined.

### **Letter to the Joint Utility Review Committee**

At this time Chairman Stoneman had to briefly leave the meeting, and he asked Co-Chair Carolyn Carter to take over until he could return. She readily assented, asking Richard Taylor to explain the Letter to the Joint Utility Review Committee. Richard said that this was the letter crafted in response to the Board's request at the last meeting to generate a letter offering the Board's expertise and knowledge to the Committee during its deliberations. Carolyn asked for discussion, and hearing none, asked for a motion to approve the letter. Leigh Horner so moved, David Kever seconded, and the motion carried.

### **Discussion for developing a comprehensive statewide wireless enhanced 911 plan**

Richard Taylor reminded all that the legislation passed last year included a definition of a Wireless Enhanced 911 State Plan, § 62A-21(15a), and a mandate to the Board to develop such a plan in § 62A-22.1(4). He referred members to copies of each in the agenda book. After reviewing those texts, he noted that we need to get to work on that plan, adding, however, that the task of creating such a plan is far more than just staff can do on its own. He said we're going to require outside sources, and to do that we are going to have to go through a bid process seeking consulting assistance. But in order to develop a bid, we have to know what to ask for, so our first step is to put out a Request for Information (RFI). The request would solicit advice on what information we need to seek and what data we need to collect to develop the plan. Richard added that he hopes that by the March meeting we would be able to have the technical specifications that would enable us to put out an RFP. Discussion centered on the scope of the plan, and Richard said that until we got the information we are seeking with the RFI, we don't really know what the potential scope might be. Chairman Stoneman encouraged Board members to offer their input and that of the organizations they represent as well as the information we get from the RFI.

### **Discussion of correspondence between Jeffrey Citron, CEO of Vonage, and Governor Easley**

Richard Taylor referred members to the copies of these letters in the agenda book. He noted that the Governor's response to Mr. Citron was through the State CIO, George Bakolia, who has asked the Wireless Board to look into VoIP. Richard then turned to Richard Bradford for advice on possible responses. Richard Bradford said that in light of the discussion on the last item, one positive response would be to indicate to Vonage that the State is undertaking that effort, and what they expect to do, and that they would appreciate any information, guidance, and so forth from Vonage. He noted that he believes Vonage has taken similar action in other states, and he thinks that Vonage is trying to find out where they fit. He observed that based on his reading, he doesn't think they fit anywhere at the moment. But it is an issue that is very much related to the expectations of the citizens of the state, this state and others, and that it is something that could be included in the plan. In fact, the statutory language directs the Board to include VoIP. So he feels we need to do this, even though it's not technically wireless. It does certainly affect the ability to move data from one PSAP to another, so from that standpoint as well as a call receiving standpoint probably does need some specific attention.

Chairman Stoneman asked Richard Taylor to craft a letter from the Board thanking them for their letter and their willingness to participate, and inform them about plans to develop a statewide Wireless Enhanced 911 Plan which specifically addresses VoIP as written in the Statute. He asked Richard to circulate the draft among the Board members, and that will be the formal response from the Board to Vonage.

### **Approval of Shared Resources ratio for FY 2006/2007**

Richard Taylor referred members to the calculation sheet in the agenda book. His recommendation was to keep the allocator at 50%. After discussion, including the absence of data from some several LECs, Verizon and Alltel with service in densely populated metropolitan areas, Belinda Gurkins made a motion to accept the recommendation, Leigh Horner seconded, and the motion carried.

### **Status of Phase I and Phase II Wireless 911 in North Carolina**

Ron Adams reported continued progress in the few remaining Phase 1 deployments, and that he is comfortable that the providers are all making good faith efforts to meet those deployment requests. Richard Taylor added that as a result of several news stories done in Eastern North Carolina last year about the status of wireless 911, there has been much progress among eastern counties in the last year toward becoming Phase 2 capable, including Hyde County, Bertie County, and Lenoir County, among others.

### **Administrative Reports**

Leslie Tripp reported that she is in the beginning stages of the audit reports for this year. They were due on January 13, and she has thus far received them from all but 20



PSAPs. She will be sending second notices to them beginning next week. She is overwhelmed in letters and correspondence for clarification of questionable items. She added that it does take about six months to get through all of this. She noted that in December the new percentage split between providers and PSAPs went into effect, but that it is too early to see a difference yet.

### **Adjourn**

Chairman Stoneman noted that this was Don VanLiew's last meeting, and thanked him for his commitment and dedication, adding that he couldn't remember many meetings at all where Don was absent. Richard Taylor added that Don was one of a select few Board members who had served two terms, and personally thanked him for his efforts. Chairman Stoneman asked if there was any other business to come before the Board. Hearing none, he asked for a motion for adjournment. Don VanLiew so moved, David Keever seconded, and the motion carried.